



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION I

5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

AUG 26 2013

CC Station Lofts LLC
c/o Capstone Communities LLC
Attn: Jason Korb, managing member
165 Armory Street
Cambridge, Massachusetts 02139

Re: PCB Risk-Based Disposal Approval under 40 CFR § 761.61(c)
124 Montello Street
Brockton, Massachusetts
MassDEP RTN: 4-24509

Dear Mr. Korb:

This is in response to the Notification¹ by CC Station Lofts LLC (CCSL) for approval of a PCB risk-based disposal plan under § 761.61(c) to address PCB contamination on the property located at 124 Montello Street (the Site) in Brockton, Massachusetts. Specifically, PCB concentrations at the property exceed the PCB level for unrestricted use under the federal PCB regulations at 40 CFR § 761.61(a).

CCSL has conducted excavation and off-site disposal of PCB-contaminated soils in accordance with 40 CFR § 761.61(b) to reduce PCB concentrations remaining at the Site. CCSL has proposed a risk-based disposal plan to address the PCB contamination remaining in Site soils that includes the following activities:

- ✓ Installation of a 2-foot thick concrete wall extending to a depth of 5 feet below grade over a distance of approximately 12 feet parallel to and poured against the wall which will "encapsulate" PCB-contaminated soils entrained within the wall;

¹ Information was submitted by Loureiro Engineering on behalf of CCSL to support a risk-based disposal approach for *PCB remediation waste* under 40 CFR § 761.61(c). Information was provided dated April 17, 2013 (email site conditions of PCBs around elevator); April 19, 2013 (email clarification on sample extraction methods); April 25, 2013 (email proposed excavation limits); May 9, 2013 (email remedial plan for Site); May 15, 2013 (email proposed revised remedial plan); June 21, 2013 (email Interim Final document); July 1, 2013 (emails clarification on heat transfer equipment oils and building material sampling); July 19, 2013 (Risk-Based Sampling, Cleanup and Disposal Plan and Immediate Action Completion Report); August 7, 2013 (email clarification on wood floor and caulk PCB results and soil sampling); and, August 13, 2013 (Response to EPA Comments). These submissions will be referred to as the "Notification."

- ✓ Installation of a six-inch thick concrete floor to cap PCB-contaminated soils in-place. The new concrete floor/cap will be installed over a polyethylene liner and will cover the entire building footprint, not just the approximate 900 square foot PCB-contaminated soil area. In addition to the liner and concrete cap, a sub-slab depressurization system (SSDS) will be installed beneath the concrete floor and extend throughout the building footprint;
- ✓ Installation of all utilities above the newly poured concrete floor with exception of the water main. The water main will be located in a clean layer of fill above the PCB-contaminated soils but beneath the concrete floor;
- ✓ Execution of a deed notice in the form of an Activity and Use Limitation (AUL) to document the permitted uses, restricted uses, and obligations and conditions which must be maintained to ensure that the PCBs and other contaminants remaining at the Site pose no unreasonable risk to building users; and,
- ✓ Establishment of an Operation and Maintenance Plan (O&M Plan) for the SSDS.

Based on EPA's review, EPA has determined that the proposed plan is acceptable and that the PCBs remaining at the Site will create no unreasonable risk to public health or the environment. The concrete cap will prevent direct exposure to Site contaminants and the SSDS will address potential presence of volatile organic compounds as well as decrease the likelihood of PCB vapor migration to indoor air. EPA applies this reasonable risk standard in accordance with the PCB regulations at 40 CFR §761.61(c), and the Toxic Substances Control Act, at 15 USC § 2605(e).

CCSL may proceed with its project in accordance with 40 CFR § 761.61(c); its Notification; and, this Approval, subject to the conditions of Attachment 1. This Approval may be revoked, suspended and/or modified as described in Attachment 1, or if the EPA determines that implementation of this Approval may present an unreasonable risk of injury to health or the environment, or if there is a change in the proposed Site use.

Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available to the EPA under Section 6 of TSCA, 15 U.S.C. 2605, 40 CFR Part 761, or other provisions of federal law.

This Approval does not release CCSL from any applicable requirements of federal, state or local law, including the requirements related to cleanup and disposal of PCBs or other contaminants under the Massachusetts Department of Environmental Protection (MassDEP) regulations.

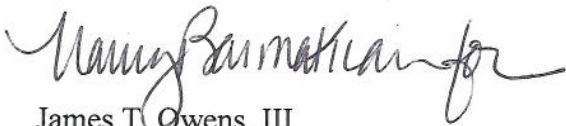
As indicated in the Notification, CCSL is proposing to provide written notice to future residents of Site conditions in the form of an addendum to the lease agreement. This Approval requires that a copy of this written notice be provided to EPA for review and comment (see Attachment 1, Condition 13).

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code: OSRR07-2
Boston, Massachusetts 02109-3912
Telephone: (617) 918-1527
Facsimile: (617) 918-0527

EPA shall consider this project complete only when it has received documents evidencing construction of the physical controls (i.e., concrete wall and floor and SSDS) and adoption of the deed restriction (i.e., AUL). Please be aware that upon EPA receipt and review of the submittals, EPA may request any additional information necessary to establish that the work has been completed in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,

A handwritten signature in dark ink, appearing to read "James T. Owens, III", is written over a horizontal line.

James T. Owens, III
Director, Office of Site Remediation & Restoration

Attachment 1: Approval Conditions

cc: Samuel Butcher, Loureiro Engineering
MassDEP RTN: 4-24509
City of Brockton Board of Health
File

ATTACHMENT 1

PCB RISK-BASED DISPOSAL APPROVAL CONDITIONS
CC STATION LOFTS LLC
124 MONTELLO STREET ("the Site")
BROCKTON, MASSACHUSETTS

GENERAL CONDITIONS

1. This Approval is granted under the authority of Section 6(e) of the Toxic Substances Control Act (TSCA), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761, and applies solely to *PCB remediation waste* identified in the Notification¹ and located at the Site.
 - a. In the event that CC Station Lofts LLC (CCSL) identifies other PCB-contaminated wastes (PCBs not identified in the Notification) subject to cleanup and disposal under the PCB regulations, CCSL will be required to notify EPA and clean up the PCB-contaminated wastes in accordance with 40 CFR Part 761.
 - b. CCSL may submit a separate plan to address the PCB contamination or may modify the Notification to incorporate cleanup of the PCBs under this Approval in accordance with Condition 18.
2. This Approval shall expire ten (10) years from the date of signature, unless extended, renewed, suspended, modified, revoked, or terminated in accordance with the conditions stated herein.
3. Application for renewal or extension of this Approval shall be made in writing at least 180 days, but not more than 270 days, prior to the expiration date. Application for renewal must include information to demonstrate that the institutional and engineered controls remain effective in mitigating risks from PCBs and that CCSL (or a subsequent owner of the property subject to the terms of this Approval) has met and will continue to meet all conditions of this Approval. In reviewing the application for renewal, EPA will consider whether Site controls are effective, if additional measures are necessary to ensure no unreasonable risk to human health or the environment, and whether Approval conditions have been met. EPA may require the submission of additional information in connection with any renewal application.

¹ Information was submitted by Loureiro Engineering on behalf of CCSL to support a risk-based disposal approach for *PCB remediation waste* under 40 CFR § 761.61(c). Information was provided dated April 17, 2013 (email site conditions of PCBs around elevator); April 19, 2013 (email clarification on sample extraction methods); April 25, 2013 (email proposed excavation limits); May 9, 2013 (email remedial plan for Site); May 15, 2013 (email proposed revised remedial plan); June 21, 2013 (email Interim Final document); July 1, 2013 (emails clarification on heat transfer equipment oils and building material sampling); July 19, 2013 (Risk-Based Sampling, Cleanup and Disposal Plan and Immediate Action Completion Report); August 7, 2013 (email clarification on wood floor and caulk PCB results and soil sampling); and, August 13, 2013 (Response to EPA Comments). These submissions will be referred to as the "Notification."

4. CCSL shall conduct on-site activities in accordance with the conditions of this Approval and with the Notification.
5. In the event that the activities described in the Notification differ from the conditions specified in this Approval, the conditions of this Approval shall govern.
6. The terms and abbreviations used herein shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
7. CCSL must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval.
8. CCSL is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are/were involved in activities conducted under this Approval. If at any time CCSL has or receives information indicating that CCSL or any other person has failed, or may have failed, to comply with any provision of this Approval, it must report the information to EPA in writing within twenty-four (24) hours of having or receiving the information.
9. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by CCSL are/were authorized to conduct the activities set forth in the Notification. CCSL is responsible for ensuring that its selected transporters and disposal facilities are/were authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
10. This Approval does not: 1) waive or compromise EPA's enforcement and regulatory authority; 2) release the CCSL from compliance with any applicable requirements of federal, state or local law; or 3) release the CCSL from liability for, or otherwise resolve, any violations of federal, state or local law.
11. Failure to comply with the Approval conditions specified herein shall constitute a violation of the requirement in § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

NOTIFICATION AND CERTIFICATION CONDITIONS

12. This Approval may be revoked if the EPA does not receive written notification from CCSL of its acceptance of the conditions of this Approval within ten (10) business days of receipt.
13. CCSL shall conduct the necessary and appropriate notification on the PCB contamination to Site tenants and/or users. Within 30 days of receipt of this Approval, a copy of the written notice shall be provided to EPA for review and comment.

DEED RESTRICTION AND USE CONDITIONS

14. Within thirty (30) days of completing the activities described in the Notification and in the Approval, CCSL shall submit for EPA review and approval, a draft deed restriction for the Site. The deed restriction shall include: a description of the extent and levels of contamination at the Site following remediation; a description of the actions taken at the Site; a description of the use restrictions and conditions for the Site; and, any operation and maintenance requirements for the SSDS. Within seven business (7) days of receipt of EPA's approval of the draft deed restriction, CCSL shall record the deed restriction. A copy of this Approval shall be attached to the deed restriction.
15. CCSL shall notify the EPA of the sale, lease or transfer of any portion of the Site, in writing, no later than thirty (30) days prior to such action. This notification shall include the name, address, and telephone number of the new owner(s). In the event that CCSL sells, leases or transfers any portion of the Site, CCSL shall continue to be bound by all the terms and conditions of this Approval, unless EPA allocates some or all of this Approval's responsibilities to the new owner through the issuance of a new approval. The procedures for the issuance of a new approval ("re-issued approval") are as follows:
 - a. The new owner(s), lessee or transfer entity must request, in writing, that the EPA issue a new approval to the new owner(s), lessee or transfer entity which transfers some or all responsibilities to comply with the terms and conditions of this Approval to that entity or entities;
 - b. The EPA reviews the request, and determines whether to issue a new approval; and,
 - c. The new owner(s), lessee or transfer entity provides written notification to the EPA of its acceptance of and intention to comply with the terms and conditions of the re-issued approval. The re-issued approval may be withdrawn if the EPA does not receive written notification from the new owner(s), lessee or transfer entity of its acceptance of, and intention to comply with, the terms and conditions of the re-issued approval within thirty (30) days of the date of the re-issued approval. Under such circumstances, all terms and conditions of this Approval will continue to be binding on CCSL.
16. In the event that the sale, lease or transfer of the Site will involve or result in a change in the use of the Site, EPA may revoke, suspend, and/or modify this Approval or the re-issued approval if it finds, due to the change in use, that this risk-based cleanup and disposal action will not be protective of health or the environment. The new owner shall record any amendment to the deed restriction, resulting from any approved modification(s), within sixty (60) days of such change(s).

17. In any sale, lease or transfer of the Site, CCSL shall retain sufficient access rights to enable it to continue to meet its obligations under this Approval, except as provided above.

INSPECTION, MODIFICATION AND REVOCATION CONDITIONS

18. Any modification(s) in the plan, specifications, and information submitted by CCSL, contained in the Notification, and forming the basis upon which this Approval has been issued, must receive prior written approval from the EPA. CCSL shall inform the EPA of any modification, in writing, at least ten (10) days prior to such change. No action may be taken to implement any such modification unless the EPA has approved of the modification, in writing. The EPA may request additional information in order to determine whether to approve the modification.

If such modification involves a change in the use of the Site which results in exposures not considered in the Notification, the EPA may revoke, suspend, and/or modify this Approval upon finding that this risk-based cleanup and disposal action may pose an unreasonable risk of injury to health or the environment due to the change in use. EPA may take similar action if the EPA does not receive requested information needed from CCSL to make a determination regarding potential risk.

19. CCSL shall conduct the operation and maintenance of the sub-slab depressurization system (SSDS) as described in the SSDS Operation and Maintenance Plan (SSDS O&M Plan) that will be developed and submitted as part of the release abatement measure (RAM) Completion Report to the Massachusetts Department of Environmental Protection (MassDEP).
 - a) A copy of the final O&M Plan shall be submitted to EPA (see Condition 25).
 - b) CCSL shall notify EPA in writing within 24 hours of a system failure with details on how the failure was/will be corrected.
 - c) CCSL shall notify EPA in writing at least 14 days prior to any proposed change or modification to the SSDS.
20. Any departure from the conditions of this Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
21. Any misrepresentation or omission of any material fact in the Notification or in any future records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.

22. Approval for these activities may be revoked, modified or otherwise altered if: EPA finds a violation of the conditions of this Approval or of 40 CFR Part 761, including EPA's PCB Spill Cleanup Policy, or other applicable rules and regulations; EPA finds that the PCBs remaining at the Site present an unreasonable risk to public health or the environment; EPA finds that the institutional and engineered controls are not effective in preventing PCB exposure; EPA finds that there is migration of PCBs from the Site; or EPA finds that changes are necessary to comply with new rules, standards, or guidance for such approvals. CCSL may apply for appropriate modifications in the event new rules, standards, or guidance come into effect.
23. CCSL shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this Approval. Any refusal by CCSL to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of this Approval.

RECORDKEEPING AND REPORTING CONDITIONS

24. CCSL shall prepare and maintain all records and documents required by 40 CFR Part 761, including, but not limited to, the records required by Subparts J and K. CCSL shall maintain a written record of the cleanup and the analytical sampling for activities conducted under this Approval. All records shall be made available for inspection by authorized representatives of the EPA, until such time as EPA approves in writing a request for an alternative disposition of such records.
25. CCSL shall submit a Final Completion Report (Report) to the EPA within 120 days of completion of the activities described under this Approval. At a minimum, this Report shall include:
 - a) a discussion of the project activities; characterization and confirmation sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCBs removed and disposed off-site; copies of manifests; and, copies of certificates of disposal or similar certifications issued by the disposer;
 - b) a certification signed by a CCSL official verifying that the authorized activities have been implemented in accordance with this Approval and the Notification;
 - c) a copy of the final SSDS O&M Plan as required under Condition 19; and,
 - d) the certification required under § 761.61(a)(8)(i)(B) and signed by an CCSL approving official, that CCSL has recorded the notation on the deed (e.g., Activity and Use Limitation (AUL)) as required under §761.61(a)(8)(i)(A). A copy of the notation on the deed must also be submitted.

26. Required submittals shall be mailed to:

Kimberly N. Tisa, PCB Coordinator
United States Environmental Protection Agency
5 Post Office Square, Suite 100
Mail Code: OSRR07-2
Boston, Massachusetts 02109-3912

27. No record, report or communication required under this Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self disclosure or penalty policies.

END OF ATTACHMENT 1